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The Honorable Stewart D. Aaron
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007

July 16, 2022

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/16/2022

Re: ***Jane Doe, et al. v. Rahul Siddharth, et al., 1:21-cv-04285-ALC-SDA***
Leave to Seek Sanctions, Compel Appearance

Dear Judge Aaron,

Plaintiffs write Your Honor to respectfully request leave to file a motion for sanctions and to compel the appearance of Rahul Siddharth for a deposition. Mr. Siddharth failed to appear for his noticed deposition yesterday morning.

Relief Sought

Because the deadline to take depositions in this matter is July 25, 2022, Plaintiffs' counsel seeks the Court (i) to Order Rahul Siddharth to appear for a deposition on July 20, 2022 at 10:00 AM at the office of Derek Smith Law Group, PLLC, One Penn Plaza, Suite 4905, New York, NY; and (ii) allow Plaintiffs to move for sanctions for costs against Mr. Henry Bell and Mr. Siddharth under FRCP 37(d)(3) for failure to appear for yesterday's noticed deposition.

Facts

Plaintiffs duly notified Siddharth's attorney, Henry Bell, that Siddharth's deposition would take place on July 15, 2022 at 10:00 AM (*see Attachment A*). Plaintiffs served this notice by certified mail, by electronic mail, and followed up with multiple emails reiterating this deposition date (including a link to virtually access the deposition).

On July 15, 2022 at 10:06 AM, my office attempted to contact Mr. Bell by phone twice. Mr. Bell's phone, it appears, has been disconnected (the automatic message stated "the person you are calling is not accepting calls at this time"). Thereafter at 10:09 AM, I emailed Mr. Bell. Thereafter at 10:13, I emailed Mr. Bell again. Thereafter, at 10:24 AM, I attempted to call Mr. Bell from a different number and once again received the same message.

Thereafter, Plaintiffs' counsel went on record. Plaintiffs' counsel noted Defendant Siddharth's failure to appear on record. (Plaintiffs' counsel is currently waiting for a transcript).

Plaintiffs' counsel has attempted to contact Mr. Bell to meet and confer on this matter to no avail, as Mr. Bell's number is not functioning and he is not responding to emails.

Conclusion

Plaintiffs thank Your Honor for your consideration. We apologize for being unable to resolve this dispute between the parties.

Respectfully Submitted,

DEREK SMITH LAW GROUP, PLLC

/s/ Alexander G. Cabeceiras

Alexander G. Cabeceiras, Esq.

Plaintiffs' motion made on Saturday, 7/16/2022, to compel a defendant to appear for deposition on Wednesday, 7/20/2022, in circumstances where that defendant's counsel was non-responsive on Friday, 7/15/2022, is DENIED. In that regard, the Court notes that Plaintiffs' counsel failed to provide the Court with a copy of the deposition notice, or the date that it was served. No later than Wednesday, 7/20/2022, Defendants' counsel shall respond to that portion of Plaintiffs' motion that seeks sanctions against him and his client. The Court shall hold a telephone conference on Friday, 7/22/2022, at 11 a.m. to address the sanctions issue and to adjust the deadline for taking the deposition of Rahul Siddharth. At the scheduled time, the parties shall each separately call (888) 278-0296 (or (214) 765-0479) and enter access code 6489745. SO ORDERED.

Dated: 7/16/2022

Alexander G. Cabeceiras